

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

UNITED STATES OF AMERICA

PETITIONER

v.

Civil Action No. 3:15-mc-00829 CWR-LRA

ROBERT L. ARCHER

RESPONDENT

REPORT AND RECOMMENDATION

This matter is before the Court on the Petition to Enforce Internal Revenue Service Summons filed on November 17, 2015, [Docket #1] by the United States of America on behalf of its agency, Internal Revenue Service (IRS), pursuant to the provisions of I.R.C. §§ 7602 and 7604(a). On November 24, 2015, the Court entered an Order to Show Cause which required the Respondent to appear before the Court at the United States Courthouse in Jackson, Mississippi, on January 6, 2016, at 10:00 a.m. in Courtroom 6D to show cause why he should not be compelled to comply with the IRS Summons. The Order to Show Cause and a copy of the Petition and Exhibits were served on the Respondent on December 3, 2015, at his home.

On January 6, 2016, a hearing was held on the Order to Show Cause. Present at the hearing were Mitzi Dease Paige, Assistant United States Attorney, counsel for the Petitioner, and Anthony M. Ware, Internal Revenue Agent, Internal Revenue Service. The Respondent failed to appear at the hearing.

Based upon the evidence presented at the hearing and in the pleadings, the Court found that the Summons meets the standards required by *United States v. Powell*, 379 U.S. 48, 57-58 (1964): The investigation is being conducted pursuant to a legitimate purpose; the inquiry is

relevant to the purpose; the information sought is not already within the Commissioner's possession; and the administrative steps required by the Code have been followed.

The undersigned hereby recommends that the Respondent, Robert L. Archer, be compelled to comply with the IRS Summons which was served on him on December 3, 2015, and further recommends that the Respondent be directed to appear before Anthony M. Ware, Revenue Officer, Internal Revenue Service, at 8:00 a.m. on April 15, 2016, at 100 West Capitol Street, Suite 503, Jackson, Mississippi 39269, for the purpose of complying with the IRS Summons. A copy of the IRS Summons is attached hereto as Exhibit A.

The undersigned further recommends that in the event that the Respondent fails to comply with the Court's Order and upon notice to the Court by the Petitioner or the Respondent's failure to comply, a bench warrant be issued by the Court; and the undersigned further recommends that a copy of the Court's Order and the attached Exhibit A be personally served on the Respondent by an official of the IRS within five (5) days of the date of issuance of the Order, and the IRS and/or the United States Attorney within twenty-four (24) hours from the date of the issuance of the Order cause a copy of the Order to be sent by certified mail to the Respondent.

The parties are hereby notified that failure to file written objections to the proposed findings, conclusions and recommendations contained within this report and recommendation within fourteen (14) days after being served with a copy shall bar that party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court. 28 U.S.C. § 636; Fed. R. Civ. P. 72(b); *Douglass v. United Services Automobile Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996)(en banc).

RESPECTFULLY SUBMITTED, this the 14th day of March, 2016.


LINDA R. ANDERSON
UNITED STATES MAGISTRATE JUDGE